

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN W. MANN

Plaintiff,

v.

NATIONSTAR MORTGAGE; et al.,

Defendants.

2:12-cv-1077-LRH-CWH

ORDER

Before the court is pro se plaintiff John W. Mann's ("Mann") motion for default judgment against defendant First American Trustee Servicing Solutions ("First American"). Doc. #25. Defendant First American filed a counter-motion to set aside the clerk's entry of default (Doc. #22). Doc. #32.

I. Facts and Background

Plaintiff Mann filed a complaint against defendants for wrongful foreclosure. *See* Doc. #1, Exhibit A. On July 16, 2012, the clerk of court entered a clerk's default against defendant First American. Doc. #22. Thereafter, Mann filed the present motion for a default judgment (Doc. #25) to which First American filed the present counter-motion to set aside default (Doc. #32).

II. Discussion

Pursuant to Rule 55 of the Federal Rules of Civil Procedure, the court may set aside an entry of default for good cause. FED. R. CIV. P. 55(c).

1 The court has reviewed the documents and pleadings on file in this matter and finds that
2 good cause exists to set aside the clerk's entry of default. First, the court recognizes that defendant
3 First American appeared in this action by filing a certificate of interested parties (Doc. #19) and a
4 notice of consent to removal (Doc. #20) prior to both the motion for entry of clerk's default
5 (Doc. #21) and clerk's entry of default (Doc. #22). Second, First American has stated that it intends
6 to participate and defend itself in this action. *See* Doc. #32. Finally, the court notes that there is a
7 strong policy in favor of resolution of disputes on the merits, rather than judgment by default. *See*
8 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Accordingly, the court shall deny Mann's motion
9 for default judgment, grant First American's counter-motion, and set aside the clerk's entry of
10 default.

11
12 IT IS THEREFORE ORDERED that plaintiff's motion for default judgment (Doc. #25) is
13 DENIED.

14 IT IS FURTHER ORDERED that defendant's counter-motion to set aside the clerk's entry
15 of default (Doc. #32) is GRANTED. The clerk's entry of default entered on July 16, 2012
16 (Doc. #22) is SET ASIDE.

17 IT IS FURTHER ORDERED that defendant shall have thirty (30) days from entry of this
18 order to file an answer to the complaint or an appropriate motion as outlined by the Federal Rules
19 of Civil Procedure.

20 IT IS FURTHER ORDERED that defendant's motion for a hearing (Doc. #59) and
21 plaintiff's motion for a decision (Doc. #60) are DENIED as moot.

22 IT IS SO ORDERED.

23 DATED this 6th day of January, 2013.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE